

**CHARTER COMMISSION
CITY AND COUNTY OF HONOLULU
711 Kapiolani Blvd. Suite 1485
Honolulu, Hawaii 96813**



**WEDNESDAY, JUNE 7, 2006
REGULAR MEETING**

**CITY COUNCIL COMMITTEE ROOM
SECOND FLOOR
CITY HALL**

MINUTES

Charter Commission Members Present:

Donn M. Takaki
Jeffrey T. Mikulina (Late 4:05 p.m.)
Andrew Chang
Amy Hirano
Darolyn H. Lendio
Stephen Meder
Jim Myers
Jan Sullivan (Late 4:08 p.m.)
Malcolm Tom

Charter Commission Members Excused:

Jerry Coffee
E. Gordon Grau
Jared Kawashima
James Pacopac

Others Present:

Chuck Narikiyo, Executive Administrator, Charter Commission
Diane Kawauchi, Deputy Corporation Counsel, Department of the Corporation Counsel
Lori K. K. Sunakoda, Deputy Corporation Counsel, Department of Corporation Counsel
Dawn Spurlin, Deputy Corporation Counsel, Department of Corporation Counsel
Nicole Love, Researcher, Charter Commission

1. Call to Order

Chair Donn Takaki called the meeting to order at 4:03 p.m. on June 7, 2006.

2. **For Approval - Minutes from January 10, January 31 and February 7 meetings**

Executive Administrator Narikiyo noted revisions to the minutes. On January 10, 2006 minutes; page 6 middle of the page add "TAKAKI" under the ayes; page 29 bottom of the page add "MIKULINA" under the "nos". On the January 31, 2006 minutes on page 30 in the "no" column, need to add a comma between Sullivan and Tom. February 7, 2006 minutes page 38 middle of the page need to fix the spelling of Commissioners Coffee and Lendio. The staff will read through for spelling and grammar before finalizing the minutes. Chair Takaki noted subsequent minutes are available for the public to review but they are not before the commission today.

Action:

Commissioner Lendio moved to approve the minutes of January 10, 2006 meeting. Commissioner Meder seconded the motion. No discussion followed.

All commissioners present voted in favor of the motion, and the motion was passed.

Commissioner Lendio moved to approve the minutes of January 31, 2006 meeting. Commissioner Meder seconded the motion. No discussion followed.

All commissioners present voted in favor of the motion, and the motion was passed.

(COMMISSIONER MIKULINA ARRIVED)

Commission Lendio moved to approve the minutes of February 7, 2006 meeting. Commissioner Meder seconded the motion. No discussion followed.

All commissioners present voted in favor of the motion, and the motion was passed.

3. **Executive Administrator's Report**

Executive Administrator Narikiyo reported the Legislative budget passed third reading this morning.

Executive Administrator Narikiyo reported on where the Commission is at this point. The Committee on Style met on May 22 and a report was given to all Commissioners in their folders and will be discussed under the Agenda item. He went on to say a copy of the calendar was also provided to the Commissioners for their review.

He noted the staff has sent out letters to city agencies and officials to let them know of the Commission's process and asked that they give input to the Commission by June 30, 2006 for the Commission's review at the July meeting. At the July meeting, Corporation Counsel will give a report on their review including various issues that were raised at the Committee on Style meeting. At that time the proposals would be further referred to the Committee on Style. During the July meeting, the Committee on Submission and Information would be assigned their tasks. With regard to specific tasks, the Committee on Style would be

charged with finalizing the actual language of the proposed amendments in Ramseyer format and drafting the ballot questions and the order of items for the ballot. He noted this would be done in a meeting or meetings in July with a report submitted to the full Commission in August. He noted the Committee on Submission and Information has a fair amount of drafting to do, particularly the voter education materials. He stated the Commission is required to publish a digest of the proposed amendments in the newspaper and planned a voter education mass mailing to all household registered voters. In the past they included a summary and explanation of all the proposals.

Executive Administrator Narikiyo stated the office has received some information from the City Clerk's office, including sample ballots for Maui and Hawaii County (**Attachment A and B**). He noted most of this information would be for the Committee on Style. He gave a brief summary of the main points – to keep the language simple and the details can be discussed in the ballot pamphlet; however the language still needs to be clear.

Chair Takaki added when the Committee on Style and the Committee on Submission and Information comes back with their report to the full Commission, he hopes the rest of the Commissioners that were not on these committees approve their reports because of the timeline of the Commission.

(COMMISSIONER SULLIVAN ARRIVED)

4. **Committee Reports**

a. Report of the Style Committee

Chair Takaki noted that Chair Kawashima of the Committee on Style was not present. Executive Administrator Narikiyo would present Chair Kawashima's report. But before doing so, he noted written testimony was received from Dr. Elizabeth Char on the Style Committee's report. He asked Dr. Char to elaborate on her written testimony.

Dr. Elizabeth Char testified the wording they had originally provided to the Commission generated some confusion and some other issues. She has provided additional language to simplify and better explain to the public what the previous wording. She noted they wording "primary pre-hospital medical provider" generated some confusion, and the language she provided puts it in more of a plain language and clarification.

Commissioner Lendio stated she understands the language provided by Dr. Char has been provided to Corporation Counsel for their review during the agency review. Dr. Char responded she received a letter asking for any changes from Mr. Narikiyo and that's when she wrote the language. Commissioner Lendio stated she believes there was a discussion in the Style Committee meeting regarding the language, and the Committee referred any types of changes or legal questions with regard to this particular proposal to the Corporation Counsel's office. During this next phase in the process, they want to hear from the Corporation Counsel what would be most accurate and legally sound phraseology and it would go back to the Committee on

Style for consideration. She went on to say she believes the Corporation Counsel already has the particular language changes.

Chair Takaki noted they asked Dr. Char as well as Corporation Counsel the possibility of combining Proposals 33 and 36 because they are related to each other. He asked Dr. Char if she had input on that. Dr. Char responded she spoke with Fire Chief Ken Silva and Deputy Fire Chief Alvin Tomita and showed them the simplified language and understands their two proposals are somewhat lengthy and would affect each other. Deputy Chief Tomita spoke to Chief Ken Silva and they are okay with the language and combination.

Commissioner Lendio clarified the question for Dr. Char and the Fire Department; she asked if they would want the two proposals combined in one ballot question, and said the Commission would need input on from the two agencies within the next three weeks. Dr. Char asked if the language would be separate but under the same question number. Commissioner Lendio responded it would be all in one. Dr. Char responded that would be fine, and it would make sense and the Commission would not have so many individual proposals. Commissioner Lendio noted the risk would be if the voting public reads the question and doesn't like one of the questions, both might fail. Dr. Char responded they understand. Chair Takaki commented he thinks that would help the Commission and the Corporation Counsel. Commissioner Lendio asked Dr. Char if they could put their position in writing for the Commission so they could consider their position. Dr. Char responded they could do that.

Tom Heinrich noted a typographical change which gave to Chuck and Nikki on page 22 line 3, the word "resident" should be "residence". He noted that Corporation Counsel would be working on the language of the proposals, but he wanted to give the Commission some proposed clarification language to give consistency, style and the proper tense, particularly in Proposal 91. The language he provided to the Commissioners would be the corrections he suggests prior to the proposal being forwarded to Corporation Counsel or prior to the final report of the Committee on Style. Mr. Heinrich noted the two worthy of emphasis on consistency in style is Proposal 5 in Subsection A, if there is only one candidate—to follow through with parallel language. In Proposal 75, he suggested blending the uniform citation style as he indicates at the bottom of his testimony on page 17, so that it would read easier.

Executive Administrator Narikiyo briefly explained the Style Committee report (**Attachment C**). He stated Corporation Counsel is looking at several of the proposals and would have more input at the next meeting. He went on to say when the Committee on Style reconvenes and finalizes the proposal, that's when the final process would be completed. Executive Administrator Narikiyo noted at the meeting, several changes were made and they are listed in the notes in the report. He then briefly described all of the changes made on each proposal. He stated the Committee on Style approved combining seven housekeeping proposals as listed into one ballot question, and they deferred the matter of Proposal 33 and 36 pending legal review and response from the departments. He clarified that Corporation Counsel, as part of their legal review, would report back to the full Commission. Chair Takaki confirmed this.

Chair Takaki asked Corporation Counsel to consider Tom Heinrich's suggested revisions.

Action: Commission Lendio moved to approve the Style Committee report. Commissioner Hirano seconded the motion. Discussion followed.

Commissioner Tom said that for Proposal 55 what was approved was a series of two questions. The first question was "Should the current system of staggering Council terms and Council term limits be replaced by alternative "a" or alternative "b" below. Then alternatives "a" and "b" were listed. But in the material before the Commissioners, the first question has been eliminated and replaced by two subsections and two questions. He passed out the handout (**Attachment D**) that was approved by the Commission and wanted to know what was the rationale for changing it, and if the Commission has the liberty for making such a drastic change to both substance and the style of the question.

Commissioner Lendio responded the Commissioners worked backwards on Proposal 55. When the Commission received the original proposal, the proposal was in the form as the question for the ballot. She goes on to assuming that if one of the scenarios passes, there has to be actual language amending the Charter. Commissioner Lendio stated this is the only proposal for which they drafted the ballot question before they did the Ramseyer text. She went on to say the Corporation Counsel drafted the actual Ramseyer format amendment to the charter should any of the scenarios pass for the Committee on Style meeting in May. Commissioner Lendio stated that's what the Committee on Style considered and that is what is before the Commissioners. She goes on to say that language should be consistent with the ballot question and Corporation Counsel is looking at whether they are consistent with the ballot question during their deliberations on Proposal 55. She noted Proposal 55 stands out because the Commission did the ballot question first and then they were faced with doing the actual amendment.

Commissioner Tom asked if Corporation Counsel opined the Commission could make that change. Commissioner Lendio responded it is not a change.

Commissioner Tom commented he thought they voted on the proposal. Commissioner Lendio replied the Commission voted on the ballot question. Corporation Counsel will have to come up with language should any of the scenarios pass after they get through the first one as to what the actual amendment would be to the charter itself. They provided a draft of what they felt should be the actual language of the amendment because this is a ballot question and not the charter amendment.

Commissioner Sullivan stated she is not clear on the responsibility of the Committee. She asked if the Committee on Style was supposed to prepare the actual language that would amend the charter in the event the ballot question passes, and asked if the Committee on Submission and Information would prepare the actual ballot language.

Chair Takaki asked Corporation Counsel to comment on Commissioner Tom and Commissioner Lendio's discussion first.

Diane Kawauchi, Deputy Corporation Counsel stated that Proposal 55 as amended, unlike other proposals, did not include proposed revisions to the charter but provided the ballot question. Corporation Counsel was requested to prepare charter text that would result from the ballot question; the Style Committee was to confirm that this text was what the Commission desired when they voted on the ballot question of Proposal 55.

Commissioner Tom then asked if the Commission has a valid proposal. Kawauchi replied yes. Commissioner Tom replied that it was not what they voted on; it was not the proposal that they approved. Kawauchi replied that it is the Style Committee's understanding of what the ballot question vote was at the April meeting. She said that by approving the Style Committee report now, it would confirm the intentions of the approval of Proposal 55 in April. Commissioner Tom said that was assuming the Commission approves it.

Commissioner Myers asked Commissioner Tom what his sense was of what they had approved. Commissioner Tom replied that he believed it was the proposal given to them; nobody said that it was the ballot question and not the proposal. Commissioner Myers stated that he assumed that; however the people voted, there would need to be an action taken. Commissioner Myers said that when they voted to approve it, he knew there would need to be additions.

Commissioner Tom stated they were voting on proposals to amend the charter, not on ballot questions. He asked if the Commission really has a valid proposal; they did not vote on how the charter should be amended.

Commissioner Myers said it was clear to him that depending on which one was voted on, there were certain things that would have to be done. They were in the proposal, but maybe not in the correct format. Commissioner Myers asked if Commissioner Tom was questioning if the proposal was legal because of the format; Commissioner Myers believes that they did not put any of the other proposals up to that test, and others may not have passed if they did so.

Commissioner Tom replied that the others were proposed amendments to the charter, not proposed ballot questions; the agendas stated what were the amendments that the Commission wanted to pass.

Commissioner Sullivan stated that she was sympathetic to what Commissioner Tom was asking; therefore she was interested in the rules and procedure. She read from the Commission Rules regarding the duties of the Style Committee; this may be a "conceptual" proposal and it is the Style Committee's job to come up with the charter language.

Commissioner Lendio stated that there was no doubt in her mind that they were consistent with the rules and the scope of their roles. The intent was that this pass, and the job of the lawyers was to draft the actual charter language if these pass; the

Style Committee was to determine if that language is what we intended; the full Committee was to vote on that particular language. Commissioner Lendio said she had no doubt legally that they adhered to the letter and intent of the rules.

Commissioner Sullivan asked whether the ballot question is the responsibility of the Style Committee. She is concerned that the language should be written in easily understandable format and believes there should be legal review of the ballot questions.

Executive Administrator Narikiyo said that the rules do not clearly spell out who is responsible for the ballot questions. However, the calendar adopted in April set forth the plan and stated that the Style Committee would draft the ballot questions.

Commission Sullivan asked if the ballot questions would have legal review as well.

Executive Administrator Narikiyo suggested that staff would draft ballot language as a starting point and distribute to the Commissioners and Corporation Counsel before the July meeting (tentatively July 11). Then it would be referred to the Style Committee to finalize the ballot language with Corporation Counsel's input. Therefore there would be some review and detailed discussion at the meeting or meetings. The Style Committee would resolve the language as well as the order on the ballot; this would be presented to the full Commission in August.

Chair Takaki stated that it would need to be on the Style Committee agenda for a later meeting in July; the Style Committee meets, Corporation Counsel would be present to assist them.

Commissioner Lendio stated she would want Corporation Counsel to review the ballot questions before the final vote.

Chair Takaki suggested the Style Committee convene this month to draft the ballot questions. Executive Administrator Narikiyo suggested possibly two meetings in July instead.

Commissioner Mikulina asked if it was the appropriate time to move to amend the report to incorporate Tom Heinrich's comments. Commissioner Lendio requested Corporation Counsel's input on Heinrich's comments; the comments could be referred to the Style Committee.

Commissioner Sullivan asked why the Commission needs to act on the report. Chair Takaki replied that the rules state that it must be adopted and referred to Corporation Counsel. Executive Administrator Narikiyo confirmed this requirement in Rule 4. Commissioner Lendio said it was an intermediary step and a formality.

Chair Takaki asked for the vote to approve the Style Committee report to be forwarded to Corporation Counsel and appropriate agencies for their comment and review.

AYE: TAKAKI, CHANG, HIRANO, LENDIO, MEDER, MIKULINA, MYERS,
SULLIVAN - 8
NO: TOM - 1

Motion passed.

b. Report of the Submission and Information Committee

Chair Takaki appointed four additional members to the Submission and Information Committee: Lendio, Mikulina, Myers, and Takaki. Commissioner Sullivan will chair this committee.

Commission Myers asked if having a committee of seven causes problems, since seven is also a majority of the full Commission. Chair Takaki replied no, because the committee also adheres to sunshine rules anyway.

c. Report of the Budget Committee

Commissioner Myers stated that the budget has made it through Council.

d. Report of the Personnel Committee – No Report.

e. Report of the Rules Committee – No Report.

6. Officers Report

- a. Chair – Chair Takaki had no report.
- b. Vice Chair – Commissioner Mikulina had no report.
- c. Treasurer – Commissioner Myers had no additional report.
- d. Secretary – Commissioner Pacopac absent.

7. Announcements

None.

8. Next Meeting Schedule

Dates for the next full Commission meeting and Style Committee meeting to be determined. Executive Administrator asked if July 11 posed any problems for the next Commission meeting. Commissioner Sullivan said she would not be here on July 11.

Commissioner Sullivan asked the staff to research examples of public education efforts in other locations.

9. Adjournment

Commissioner Lendio moved to adjourn, Commissioner Hirano seconded that motion. Meeting was adjourned at 4:48 p.m.